IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

WP(C).No. 1760 of 2007(H)

PETITIONER:

A.ANZAR,
PUTHENPURAYIL,
VADAKKEVILA P.O.,
KOLLAM - 10

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM

3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
KOLLAM

BY SENIOR GOVERNMENT PLEADER, SRI P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

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W.P.(C) No. 1760 of 2007 (H)

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Dated this the 16th day of January, 2007

J U D G M E N T

Because of the operation of Rule 44(1)(d) of the Kerala Co-operative Societies Rules, 1969, in short 'the Rules', in relation to the lease deed dated 20.11.2002, the second respondent, the Registrar of Co-operative Societies, disqualified the writ petitioner. The same is under challenge through this writ petition.

2. The contention of the writ petitioner is that the lease agreement was entered into with the District Co-operative Bank and not with the Kollurvila Service Co-operative Bank, which sent the writ petitioner as a delegate to the District Co-operative Bank. Therefore, it is submitted that Rule 44(1)(d) is inapplicable so far as the continuance of the writ petitioner as the member of the managing committee of the Kollurvila Service Co-operative Bank is concerned.

3. The learned Senior Government Pleader, however submitted that, if at all there is any challenge of Exhibit

P6 order dated 09/01/2007, passed under Rule 44(1)(d) of the Rules, an appeal alone shall lie and not a writ petition.

4. After hearing both sides and considering the facts that are placed before me, I direct the writ petitioner to approach the Government and file an appeal under Section 83(2) of the Kerala Co-operative Societies Act, 1969. However, in the interest of justice, I keep Exhibit P6 order, dated 09/01/2007, of the second respondent, in abeyance, for a period of two weeks, to enable the writ petitioner to file an appeal and stay petition, if so advised.

5. Once an appeal is preferred, the Government of Kerala shall dispose of the appeal, within two months from the date of filing of the appeal.

The writ petition is closed as above.

(J.M.JAMES)
Judge

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